

Application No. 09/721,728
Attorney Docket No.: 361916-991100
Reply Brief

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant	: Rani K. Yadav-Ranjan		
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No.			

Title: PROCESS AND DEVICE FOR CONDUCTING ELECTRONIC TRANSACTIONS

REPLY BRIEF

Dear Sir/Madam:

This is a reply brief for an appeal from a Final Office Action mailed July 17, 2007, and from a Notice of Appeal that was filed on September 27, 2007.

TABLE OF CONTENTS

I. STATUS OF THE CLAIMS	3
II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL	4
III. APPELLANT’S ARGUMENT	5
A. Claim 1 Is Not Anticipated by Delfer	5
B. Claim 2 Is Not Anticipated by Delfer	9
C. Claim 21 Is Not Anticipated by Delfer	13
D. Claim 22 Is Not Anticipated by Delfer	17
E. Claims 3-19 and 23-39 and 41	21
F. Conclusion	22

I. STATUS OF THE CLAIMS

The application was originally filed with Claims 1-41. Claims 1-19, 21-39 and 41 remain pending and all stand rejected and this is an appeal of rejected Claims 1-19, 21-39 and 41. Claims 1-19, 21-39 and 41 are reproduced and attached in the Claims Appendix.

II. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed on appeal are as follows:

- 1) Claims 1-19, 21-39 and 41 were rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,496,991 to Delfer, III et al. (hereinafter “Delfer”).

III. APPELLANT’S ARGUMENT

A. Claim 1 Is Not Anticipated by Delfer

The Examiner has rejected Claim 1 under 35 U.S.C. § 102(b) as being anticipated by US Patent 5,496,991 to Delfer, III et al. (hereinafter “Delfer”). *See Final Office action at pg. 2.*

The Board should overturn this rejection because each element of claim 1 is not found expressly or inherently in Delfer in as much detail as in the claim for the reasons set forth below and therefore the anticipation rejection must be overturned by the Board.

1. Summary of Delfer

Delfer is an automated remittance system. *See Delfer Title.* Further, Delfer discloses an automated remittance system in which the consumers’ pre-authorization are obtained by a billing system provider 1 to initiate an electronic transfer of funds from the consumers’ depository accounts to a vendor’s depository account. *See Delfer Abstract.* Furthermore, “The billing service provider acts as a central processing facility for billing consumers of vendor clients.” *See Delfer at Col. 3, lines 50-52.* In Delfer, it is clear that the billing system provider (a third party) is involved in the automated remittance transaction between a consumer and a vendor so that the remittance information is not communicated directly to the payee.

In addition, Delfer discloses the automatic remittance system in which various pieces of payor information (identification data, account numbers, etc.) are stored in a database maintained by the billing service provider. *See Delfer at Col. 4, lines 15-29 and Figure 1, 1a.* Delfer also discloses remittance documents 6 that are used in the automated remittance system. *See Delfer at Col. 5, lines 33-56.*

2. Claim 1

1. A method for conducting a transaction using a medium based on a receipt having payment remittance information, comprising:

enabling a payor to authorize a payment due on the receipt to a payee;

associating the payment with the payment remittance information;

communicating the payment instructions directly to the payee to initiate payment of the amount; and

wherein the payment remittance information is arranged within a data structure, the data structure comprising one or more data fields to hold data that the payor can enter, and the payment remittance information further comprises a structured remittance data that is kept hidden from the payee.

(a) Response to Examiner's Answer with Respect to Claim 1

In the Appeal Brief, the Appellant argued that the elements of “communicating the payment instructions directly to the payee to initiate payment of the amount” and “wherein the payment remittance information is arranged within a data structure, the data structure comprising one or more data fields to hold data that the payor can enter, and the payment remittance information further comprises a structured remittance data that is kept hidden from the payee” were not shown by Delfer.

In the examiner's answer, the examiner has asserted that Delfer does in fact show these elements of claim 1. However, Delfer still does not disclose each of these elements of claim 1 and the examiner's reasoning set forth in the examiner's answer illustrates the flawed logic of the examiner's position.

(b) Legal Standard for an Anticipation Rejection

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). *See also MPEP 2131 et seq.*

(c) Each Element of Claim 1 is Not Found in Delfer

Each element of claim 1 is not found expressly or inherently in Delfer. In particular, the “communicating the payment instructions directly to the payee...” element and the “structured

remittance data that is kept hidden from the payee” element are not found expressly or inherently in Delfer for the reasons set forth below.

(i) “Communicating the Payment Instructions Directly to the Payee...” Element

The examiner still has not established (in the First Office Action, Final Office Action, the Advisory Action or the examiner’s answer) that this claim element is found, expressly or inherently, in Delfer. The arguments presented in the Appeal Brief are incorporated herein, but are not repeated.

(A) The Examiner’s Answer

In the examiner’s answer, the examiner asserts that “Delfer discloses that the bar coded information containing payment instructions is communicated to the sole vendor who may have funds directed to their depository, which is being interpreted by the examiner as payment instructions being communicated directly to the payee to initiate payment of the amount – col. 6, lines 30-40.” *See Examiner’s Answer at pp. 6-7*. This is the same argument presented by the examiner in the Final Office action and already addressed by the Appellant in the Appeal Brief. The examiner has not, in any way, addressed the points and arguments made by Appellant.

Furthermore, when explaining how the claimed “structured remittance data that is kept hidden from the payee” element is found in Delfer, the examiner asserts “The data is kept hidden from the payee in that the payor **provides information for funds transfer to someone other than the payee (a billing service provider)** which the payor does not have access to – col. 4, lines 1-15 and col. 6, lines 30-50.” (emphasis added) *See Examiner’s Answer at pg. 7*. This statement is contradictory to the assertion made by the examiner above (that Delfer discloses communicating the payment information directly to the payee) and illustrates the flawed logic of the examiner in which the examiner has selected phrases from the Delfer allegedly showing elements without showing how those elements are arranged as required by the claims despite MPEP 2131 and *In re Bond* as set forth above.

In addition, the claims require a method in which both the payment instructions are communicated directly to the payee and structured remittance data is kept hidden from the payee, but the combination of these elements arranged as required by the claims are not disclosed in Delfer.

In fact, the different portions of Delfer cited by the examiner refute completely the examiner's assertion that Delfer in fact discloses the claimed invention.

(B) Conclusion

Thus, the examiner has not, in the Examiner's Answer, shown that this claim element is found, expressly or inherently, in Delfer in as complete detail as is contained in the claim.

(ii) **“Structured Remittance Data that is Kept Hidden From the Payee” Element**

The examiner still has not established (in the First Office Action, Final Office Action, the Advisory Action or the examiner's answer) that this claim element is found, expressly or inherently, in Delfer. The arguments presented in the Appeal Brief are incorporated herein, but are not repeated.

(A) Examiner's Answer

In the Examiner's Answer, the examiner argues “The data is kept hidden from the payee in that the payor provides information for funds transfer to someone other than the payee (a billing service provider) which the payor does not have access to – col. 4, lines 1-15 and col. 6, lines 30-50.” *See Examiner's Answer at pg. 7*. This is the same argument presented by the examiner in the Final Office action and already addressed by the Appellant in the Appeal Brief. The examiner has not, in any way, addressed the points and arguments made by Appellant.

Furthermore, when explaining how the claimed “communicating payment instruction directly to the payee” element is found in Delfer, the examiner asserts “Delfer discloses that the bar coded information containing payment instructions is communicated to the sole vendor who may have funds directed to their depository, **which is being interpreted by the examiner as payment instructions being communicated directly to the payee to initiate payment of the amount** – col. 6, lines 30-40.” (emphasis added) *See Examiner's Answer at pp. 6-7*. This statement is contradictory to the assertion made by the examiner above (that Delfer discloses the structured remittance data that is kept hidden from the payee) and illustrates the flawed logic of the examiner in which the examiner has selected phrases from the Delfer allegedly showing elements without showing how those elements are arranged as required by the claims despite MPEP 2131 and *In re Bond* as set forth above.

In particular, the claims require both that the payment instructions are communicated directly to the payee and that structured remittance data is kept hidden from the payee, but the combination of these elements arranged as required by the claims are not disclosed in Delfer. In fact, the different portions of Delfer cited by the examiner refute completely the examiner's assertion that Delfer in fact discloses the claimed invention.

(B) Conclusion

Thus, the examiner has not, in the Examiner's Answer, shown that this claim element is found, expressly or inherently, in Delfer in as complete detail as is contained in the claim.

(iii) Conclusion

Thus, these two elements of claim 1 are not found, expressly or inherently, in Delfer in as complete detail as is contained in the claim for the reasons set forth above. Therefore, the examiner rejection of claim 1 as anticipated by Delfer is improper for the reasons set forth above and therefore the anticipatory rejection must be overturned by the Board.

B. Claim 2 Is Not Anticipated by Delfer

The Examiner has rejected Claim 2 under 35 U.S.C. § 102(b) as being anticipated by US Patent 5,496,991 to Delfer, III et al. (hereinafter "Delfer"). *See Final Office action at pg. 2.*

The Board should overturn this rejection because each element of claim 2 is not found expressly or inherently in Delfer in as much detail as in the claim for the reasons set forth below and therefore the anticipation rejection must be overturned by the Board.

1. Summary of the Delfer

The summary of Delfer is set forth above and will not be repeated here.

2. Claim 2

2. A method of executing computer-executable instructions residing in or on a processor using a medium, comprising:

storing a receipt and a payment remittance information in a memory, the payment remittance information comprising a structured remittance data that is kept hidden from a payee;

presenting the receipt to the payee without revealing the structured remittance data;

enabling the payor to specify payment instructions comprising at least an amount to be paid on the receipt and an account at a payor from which to draw the amount while prohibiting the payor from altering data contained in the structured remittance data;

associating the payment instructions with the structured remittance data; communicating the payment instructions from the memory directly to the payor to initiate payment of the amount; and

routing the amount to a payee.

(a) Response to Examiner's Answer with Respect to Claim 2

In the Appeal Brief, the Appellant argued that the elements of "storing a receipt and a payment remittance information in a memory, the payment remittance information comprising a structured remittance data that is kept hidden from a payee" and "associating the payment instructions with the structured remittance data; communicating the payment instructions from the memory directly to the payor to initiate payment of the amount" were not shown by Delfer.

In the examiner's answer, the examiner has asserted that Delfer does in fact show these elements of claim 2. However, Delfer still does not disclose each of these elements of claim 1 and the examiner's reasoning set forth in the examiner's answer illustrates the flawed logic of the examiner's position.

(b) Legal Standard for an Anticipation Rejection

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). *See also MPEP 2131 et seq.*

(c) Each Element of Claim 2 is Not Found in Delfer

Each element of claim 2 is not found expressly or inherently in Delfer. In particular, the "storing a receipt and a payment remittance information in a memory, the payment remittance

information comprising a structured remittance data that is kept hidden from a payee” and “associating the payment instructions with the structured remittance data; communicating the payment instructions from the memory directly to the payor to initiate payment of the amount” element are not found expressly or inherently in Delfer for the reasons set forth below.

(i) “Associating the payment instructions with the structured remittance data; communicating the payment instructions from the memory directly to the payor to initiate payment of the amount” Element

The examiner still has not established (in the First Office Action, Final Office Action, the Advisory Action or the examiner’s answer) that this claim element is found, expressly or inherently, in Delfer. The arguments presented in the Appeal Brief are incorporated herein, but are not repeated.

(A) The Examiner’s Answer

In the examiner’s answer, the examiner asserts that “Delfer discloses that the bar coded information containing payment instructions is communicated to the sole vendor who may have funds directed to their depository, which is being interpreted by the examiner as payment instructions being communicated directly to the payee to initiate payment of the amount – col. 6, lines 30-40.” *See Examiner’s Answer at pp. 6-7*. This is the same argument presented by the examiner in the Final Office action and already addressed by the Appellant in the Appeal Brief. The examiner has not, in any way, addressed the points and arguments made by Appellant.

Furthermore, when explaining how the claimed “structured remittance data that is kept hidden from the payee” element is found in Delfer, the examiner asserts “The data is kept hidden from the payee in that the payor **provides information for funds transfer to someone other than the payee (a billing service provider)** which the payor does not have access to – col. 4, lines 1-15 and col. 6, lines 30-50.” (emphasis added) *See Examiner’s Answer at pg. 7*. This statement is contradictory to the assertion made by the examiner above (that Delfer discloses communicating the payment information directly to the payee) and illustrates the flawed logic of the examiner in which the examiner has selected phrases from the Delfer allegedly showing elements without showing how those elements are arranged as required by the claims despite MPEP 2131 and *In re Bond* as set forth above.

In addition, the claims require a method in which both the payment instructions are communicated directly to the payee and structured remittance data is kept hidden from the payee, but the combination of these elements arranged as required by the claims are not disclosed in Delfer. In fact, the different portions of Delfer cited by the examiner refute completely the examiner's assertion that Delfer in fact discloses the claimed invention.

(B) Conclusion

Thus, the examiner has not, in the Examiner's Answer, shown that this claim element is found, expressly or inherently, in Delfer in as complete detail as is contained in the claim.

(ii) **“Structured Remittance Data that is Kept Hidden From the Payee” Element**

The examiner still has not established (in the First Office Action, Final Office Action, the Advisory Action or the examiner's answer) that this claim element is found, expressly or inherently, in Delfer. The arguments presented in the Appeal Brief are incorporated herein, but are not repeated.

(A) Examiner's Answer

In the Examiner's Answer, the examiner argues “The data is kept hidden from the payee in that the payor provides information for funds transfer to someone other than the payee (a billing service provider) which the payor does not have access to – col. 4, lines 1-15 and col. 6, lines 30-50.” *See Examiner's Answer at pg. 7.* This is the same argument presented by the examiner in the Final Office action and already addressed by the Appellant in the Appeal Brief. The examiner has not, in any way, addressed the points and arguments made by Appellant.

Furthermore, when explaining how the claimed “communicating payment instruction directly to the payee” element is found in Delfer, the examiner asserts “Delfer discloses that the bar coded information containing payment instructions is communicated to the sole vendor who may have funds directed to their depository, **which is being interpreted by the examiner as payment instructions being communicated directly to the payee to initiate payment of the amount** – col. 6, lines 30-40.” (emphasis added) *See Examiner's Answer at pp. 6-7.* This statement is contradictory to the assertion made by the examiner above (that Delfer discloses the structured remittance data that is kept hidden from the payee) and illustrates the flawed logic of the examiner

in which the examiner has selected phrases from the Delfer allegedly showing elements without showing how those elements are arranged as required by the claims despite MPEP 2131 and *In re Bond* as set forth above.

In particular, the claims require both that the payment instructions are communicated directly to the payee and that structured remittance data is kept hidden from the payee, but the combination of these elements arranged as required by the claims are not disclosed in Delfer. In fact, the different portions of Delfer cited by the examiner refute completely the examiner's assertion that Delfer in fact discloses the claimed invention.

(B) Conclusion

Thus, the examiner has not, in the Examiner's Answer, shown that this claim element is found, expressly or inherently, in Delfer in as complete detail as is contained in the claim.

(iii) Conclusion

Thus, these two elements of claim 2 are not found, expressly or inherently, in Delfer in as complete detail as is contained in the claim for the reasons set forth above. Therefore, the examiner rejection of claim 2 as anticipated by Delfer is improper for the reasons set forth above and therefore the anticipatory rejection must be overturned by the Board.

C. **Claim 21 Is Not Anticipated by Delfer**

The Examiner has rejected Claim 21 under 35 U.S.C. § 102(b) as being anticipated by US Patent 5,496,991 to Delfer, III et al. (hereinafter "Delfer"). *See Final Office action at pg. 2.*

The Board should overturn this rejection because each element of claim 21 is not found expressly or inherently in Delfer in as much detail as in the claim for the reasons set forth below and therefore the anticipation rejection must be overturned by the Board.

1. **Summary of the Delfer**

The summary of Delfer is set forth above and will not be repeated here.

2. **Claim 21**

21. A device, comprising:

means for generating a receipt and a payment remittance information;

means for enabling a payor to authorize a payment due on the receipt; and

means for associating the payment with the payment remittance information;

means for communicating the payment instructions directly to the payor to initiate payment of the amount; and

wherein the device conducts a transaction using a medium,

wherein the payment remittance information is arranged within a data structure, the data structure comprising one or more open data fields to hold data that the payor can enter, and the payment remittance information further comprises a structured remittance data that is kept hidden from the payee.

(a) Response to Examiner's Answer with Respect to Claim 21

In the Appeal Brief, the Appellant argued that the elements of "means for communicating the payment instructions directly to the payor to initiate payment of the amount" and "wherein the payment remittance information is arranged within a data structure, the data structure comprising one or more data fields to hold data that the payor can enter, and the payment remittance information further comprises a structured remittance data that is kept hidden from the payee" were not shown by Delfer.

In the examiner's answer, the examiner has asserted that Delfer does in fact show these elements of claim 21. However, Delfer still does not disclose each of these elements of claim 21 and the examiner's reasoning set forth in the examiner's answer illustrates the flawed logic of the examiner's position.

(b) Legal Standard for an Anticipation Rejection

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). *See also MPEP 2131 et seq.*

(c) Each Element of Claim 21 is Not Found in Delfer

Each element of claim 1 is not found expressly or inherently in Delfer. In particular, the “communicating the payment instructions directly to the payee...” element and the “structured remittance data that is kept hidden from the payee” element are not found expressly or inherently in Delfer for the reasons set forth below.

**(i) “Means For Communicating The Payment Instructions
Directly To The Payor To Initiate Payment Of The Amount” Element**

The examiner still has not established (in the First Office Action, Final Office Action, the Advisory Action or the examiner’s answer) that this claim element is found, expressly or inherently, in Delfer. The arguments presented in the Appeal Brief are incorporated herein, but are not repeated.

(A) The Examiner’s Answer

In the examiner’s answer, the examiner asserts that “Delfer discloses that the bar coded information containing payment instructions is communicated to the sole vendor who may have funds directed to their depository, which is being interpreted by the examiner as payment instructions being communicated directly to the payee to initiate payment of the amount – col. 6, lines 30-40.” *See Examiner’s Answer at pp. 6-7*. This is the same argument presented by the examiner in the Final Office action and already addressed by the Appellant in the Appeal Brief. The examiner has not, in any way, addressed the points and arguments made by Appellant.

Furthermore, when explaining how the claimed “structured remittance data that is kept hidden from the payee” element is found in Delfer, the examiner asserts “The data is kept hidden from the payee in that the payor **provides information for funds transfer to someone other than the payee (a billing service provider)** which the payor does not have access to – col. 4, lines 1-15 and col. 6, lines 30-50.” (emphasis added) *See Examiner’s Answer at pg. 7*. This statement is contradictory to the assertion made by the examiner above (that Delfer discloses communicating the payment information directly to the payee) and illustrates the flawed logic of the examiner in which the examiner has selected phrases from the Delfer allegedly showing elements without showing how those elements are arranged as required by the claims despite MPEP 2131 and *In re Bond* as set forth above.

In addition, the claims require a method in which both the payment instructions are communicated directly to the payee and structured remittance data is kept hidden from the payee, but the combination of these elements arranged as required by the claims are not disclosed in Delfer. In fact, the different portions of Delfer cited by the examiner refute completely the examiner's assertion that Delfer in fact discloses the claimed invention.

(B) Conclusion

Thus, the examiner has not, in the Examiner's Answer, shown that this claim element is found, expressly or inherently, in Delfer in as complete detail as is contained in the claim.

(ii) **“Structured Remittance Data that is Kept Hidden From the Payee” Element**

The examiner still has not established (in the First Office Action, Final Office Action, the Advisory Action or the examiner's answer) that this claim element is found, expressly or inherently, in Delfer. The arguments presented in the Appeal Brief are incorporated herein, but are not repeated.

(A) Examiner's Answer

In the Examiner's Answer, the examiner argues “The data is kept hidden from the payee in that the payor provides information for funds transfer to someone other than the payee (a billing service provider) which the payor does not have access to – col. 4, lines 1-15 and col. 6, lines 30-50.” *See Examiner's Answer at pg. 7.* This is the same argument presented by the examiner in the Final Office action and already addressed by the Appellant in the Appeal Brief. The examiner has not, in any way, addressed the points and arguments made by Appellant.

Furthermore, when explaining how the claimed “communicating payment instruction directly to the payee” element is found in Delfer, the examiner asserts “Delfer discloses that the bar coded information containing payment instructions is communicated to the sole vendor who may have funds directed to their depository, **which is being interpreted by the examiner as payment instructions being communicated directly to the payee to initiate payment of the amount** – col. 6, lines 30-40.” (emphasis added) *See Examiner's Answer at pp. 6-7.* This statement is contradictory to the assertion made by the examiner above (that Delfer discloses the structured remittance data that is kept hidden from the payee) and illustrates the flawed logic of the examiner

in which the examiner has selected phrases from the Delfer allegedly showing elements without showing how those elements are arranged as required by the claims despite MPEP 2131 and *In re Bond* as set forth above.

In particular, the claims require both that the payment instructions are communicated directly to the payee and that structured remittance data is kept hidden from the payee, but the combination of these elements arranged as required by the claims are not disclosed in Delfer. In fact, the different portions of Delfer cited by the examiner refute completely the examiner's assertion that Delfer in fact discloses the claimed invention.

(B) Conclusion

Thus, the examiner has not, in the Examiner's Answer, shown that this claim element is found, expressly or inherently, in Delfer in as complete detail as is contained in the claim.

(iii) Conclusion

Thus, these two elements of claim 21 are not found, expressly or inherently, in Delfer in as complete detail as is contained in the claim for the reasons set forth above. Therefore, the examiner rejection of claim 21 as anticipated by Delfer is improper for the reasons set forth above and therefore the anticipatory rejection must be overturned by the Board.

D. Claim 22 Is Not Anticipated by Delfer

The Examiner has rejected Claim 22 under 35 U.S.C. § 102(b) as being anticipated by US Patent 5,496,991 to Delfer, III et al. (hereinafter "Delfer"). *See Final Office action at pg. 2.*

The Board should overturn this rejection because each element of claim 22 is not found expressly or inherently in Delfer in as much detail as in the claim for the reasons set forth below and therefore the anticipation rejection must be overturned by the Board.

1. Summary of the Delfer

The summary of Delfer is set forth above and will not be repeated here.

2. Claim 22

22. A device, comprising:

means for storing a receipt and a payment remittance information, the payment remittance information comprising a structured remittance data that is kept hidden from a payee;

means for presenting the receipt to the payee without revealing the structured remittance data;

means for enabling the payor to specify payment instructions comprising at least an amount to be paid on the receipt and an account at a payor from which to draw the amount while prohibiting the payor from altering data contained in the structured remittance data; means for associating the payment instructions with the structured remittance data;

means for communicating the payment instructions directly to the payor to initiate payment of the amount; and

means for routing the amount to a payee.

(a) Response to Examiner's Answer with Respect to Claim 22

In the Appeal Brief, the Appellant argued that the elements of "means for communicating the payment instructions directly to the payor to initiate payment of the amount" and "means for storing a receipt and a payment remittance information, the payment remittance information comprising a structured remittance data that is kept hidden from a payee" were not shown by Delfer.

In the examiner's answer, the examiner has asserted that Delfer does in fact show these elements of claim 22. However, Delfer still does not disclose each of these elements of claim 22 and the examiner's reasoning set forth in the examiner's answer illustrates the flawed logic of the examiner's position.

(b) Legal Standard for an Anticipation Rejection

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). *See also MPEP 2131 et seq.*

(c) Each Element of Claim 22 is Not Found in Delfer

Each element of claim 1 is not found expressly or inherently in Delfer. In particular, the “communicating the payment instructions directly to the payee...” element and the “structured remittance data that is kept hidden from the payee” element are not found expressly or inherently in Delfer for the reasons set forth below.

**(i) “Means For Communicating The Payment Instructions
Directly To The Payor To Initiate Payment Of The Amount”**

The examiner still has not established (in the First Office Action, Final Office Action, the Advisory Action or the examiner’s answer) that this claim element is found, expressly or inherently, in Delfer. The arguments presented in the Appeal Brief are incorporated herein, but are not repeated.

(A) The Examiner’s Answer

In the examiner’s answer, the examiner asserts that “Delfer discloses that the bar coded information containing payment instructions is communicated to the sole vendor who may have funds directed to their depository, which is being interpreted by the examiner as payment instructions being communicated directly to the payee to initiate payment of the amount – col. 6, lines 30-40.” *See Examiner’s Answer at pp. 6-7*. This is the same argument presented by the examiner in the Final Office action and already addressed by the Appellant in the Appeal Brief. The examiner has not, in any way, addressed the points and arguments made by Appellant.

Furthermore, when explaining how the claimed “structured remittance data that is kept hidden from the payee” element is found in Delfer, the examiner asserts “The data is kept hidden from the payee in that the payor **provides information for funds transfer to someone other than the payee (a billing service provider)** which the payor does not have access to – col. 4, lines 1-15 and col. 6, lines 30-50.” (emphasis added) *See Examiner’s Answer at pg. 7*. This statement is contradictory to the assertion made by the examiner above (that Delfer discloses communicating the payment information directly to the payee) and illustrates the flawed logic of the examiner in which the examiner has selected phrases from the Delfer allegedly showing elements without showing how those elements are arranged as required by the claims despite MPEP 2131 and *In re Bond* as set forth above.

In addition, the claims require a method in which both the payment instructions are communicated directly to the payee and structured remittance data is kept hidden from the payee, but the combination of these elements arranged as required by the claims are not disclosed in Delfer. In fact, the different portions of Delfer cited by the examiner refute completely the examiner's assertion that Delfer in fact discloses the claimed invention.

(B) Conclusion

Thus, the examiner has not, in the Examiner's Answer, shown that this claim element is found, expressly or inherently, in Delfer in as complete detail as is contained in the claim.

(ii) **“Structured Remittance Data that is Kept Hidden From the Payee” Element**

The examiner still has not established (in the First Office Action, Final Office Action, the Advisory Action or the examiner's answer) that this claim element is found, expressly or inherently, in Delfer. The arguments presented in the Appeal Brief are incorporated herein, but are not repeated.

(A) Examiner's Answer

In the Examiner's Answer, the examiner argues “The data is kept hidden from the payee in that the payor provides information for funds transfer to someone other than the payee (a billing service provider) which the payor does not have access to – col. 4, lines 1-15 and col. 6, lines 30-50.” *See Examiner's Answer at pg. 7.* This is the same argument presented by the examiner in the Final Office action and already addressed by the Appellant in the Appeal Brief. The examiner has not, in any way, addressed the points and arguments made by Appellant.

Furthermore, when explaining how the claimed “communicating payment instruction directly to the payee” element is found in Delfer, the examiner asserts “Delfer discloses that the bar coded information containing payment instructions is communicated to the sole vendor who may have funds directed to their depository, **which is being interpreted by the examiner as payment instructions being communicated directly to the payee to initiate payment of the amount** – col. 6, lines 30-40.” (emphasis added) *See Examiner's Answer at pp. 6-7.* This statement is contradictory to the assertion made by the examiner above (that Delfer discloses the structured remittance data that is kept hidden from the payee) and illustrates the flawed logic of the examiner

in which the examiner has selected phrases from the Delfer allegedly showing elements without showing how those elements are arranged as required by the claims despite MPEP 2131 and *In re Bond* as set forth above.

In particular, the claims require both that the payment instructions are communicated directly to the payee and that structured remittance data is kept hidden from the payee, but the combination of these elements arranged as required by the claims are not disclosed in Delfer. In fact, the different portions of Delfer cited by the examiner refute completely the examiner's assertion that Delfer in fact discloses the claimed invention.

(B) Conclusion

Thus, the examiner has not, in the Examiner's Answer, shown that this claim element is found, expressly or inherently, in Delfer in as complete detail as is contained in the claim.

(iii) Conclusion

Thus, these two elements of claim 22 are not found, expressly or inherently, in Delfer in as complete detail as is contained in the claim for the reasons set forth above. Therefore, the examiner rejection of claim 22 as anticipated by Delfer is improper for the reasons set forth above and therefore the anticipatory rejection must be overturned by the Board.

E. Claims 3-19 and 23-39 and 41

Claims 3-19 (that depend directly or indirectly on claims 1 or 2) and claims 23-39 and 41 (that depend directly or indirectly on claims 21 or 22) were also improperly rejected based on Delfer and the rejection of those claims must be overturned by the Board as well.

F. Conclusion

In view of the foregoing arguments, the anticipation rejection of claims 1-19, 21-39 is improper and should be overturned by the Board.

Respectfully submitted,

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